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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,358	07/30/2001	Paul Dvorkis	04873-084001	1840
26161	7590	11/03/2003	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			KIM, AHSHIK	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 11/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/918,358

Applicant(s)

DVORKIS, PAUL

Examiner

Ahshik Kim

Art Unit

2876

AW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08/07/03 Response.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-22 is/are rejected.
- 7) ☒ Claim(s) 1 and 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response*

1. Receipt is acknowledged of the response filed on August 7, 2003. Claims 1-22 remain  
5 for examination.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

10 (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in  
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are  
such that the subject matter as a whole would have been obvious at the time the invention was made to a person  
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the  
manner in which the invention was made.

- 15 3. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr.  
(US 5,149,949, "Wike" hereinafter).

20 Wike teaches an optical scanner for reading barcode code (col. 1, lines 6; col. 2, lines  
23+) comprising light source (col. 2, lines 66+), which generates a raster scanning beams (see  
claim 4). As shown in figure 2, the target are being scanned is comprised of brighter area and  
less bright area. Obviously, the area with greater scanning beam density would be brighter  
compared to area with less illumination and can serve as a alignment guidance for the users .  
Although Wike refers the optical code as "bar code" throughout the patent, it is the Examiner's  
view that the barcode can certainly be one-dimensional or two-dimensional code format.

### *Allowable Subject Matter*

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4. Claims 3-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: the

5 claims are directed at a raster code scanner reading two-dimensional optical code, and in particular scanning beam creates the region of apparent greater brightness for assisting in alignment of two-dimensional scanning pattern. As found in many references provided by Applicant, alignment of the reader to the target (i.e., spotter beams, cross-hair marker, and other form of mark around the target or in the viewing area of the reader) is well known in the art, and  
10 widely used in the industry. However, the cited references, taken alone or in combinations, fail to suggest or teach the scanner producing an outgoing beam wherein the scanning spot is shaped differently from the shape of other regions as set forth in the claims.

#### ***Response to Remarks***

15 6. Applicant's remarks filed on August 7, 2003 have been carefully considered. In doing so, Examiner agrees with Applicant that there is a single light source, which illuminates target area with different brightness. In view of Applicant's argument, this Office Action is issued non-final.

#### ***Conclusion***

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I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Tamburrini et al. (US 6,575,368) disclose an optical reader illuminating with varying intensity.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (703)305-5203 . The examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax number directly to the Examiner is (703) 746-4782. The fax phone number for this Group is (703)872-9306.

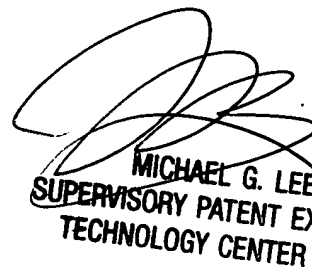
Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim  
Patent Examiner  
Art Unit 2876  
October 22, 2003



MICHAEL G. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800

